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DAZHI CHEN

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EXAMINER

SHEIKH, ASFAND M

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

04/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/461,336	Applicant(s) CHEN ET AL.	
	Examiner Asfand M. Sheikh	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-153 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 14-16, 23-45, 49-51, 58-81, 84-98, 100, 102-112, 115-129, 131 and 133-153 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continuation of Disposition of Claims: Claims withdrawn from consideration are 11-13, 17-22, 48, 52-57, 82-83, 99, 101, 113-114, 130 and 132.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/27/2008 has been entered.

Notice to Applicant

The examiner notes the amendment filed on 2/27/2008 has been entered. The examiner notes claims 1, 3-4, 7-9, 31-32, 35-36, 38, 44, 66-67, 70-71, 85, 89, 92, 102, 116, 123, 133, 137 and 153 have been amended and no claims have been cancelled or newly added. Therefore claims 1-153 are pending, of which claims 11-13, 17-22, 48, 52-57, 82-83, 99, 101, 113-114, 130 and 132 remain withdrawn. The examiner establishes new grounds of rejection, therefore this action is made non-final.

Response to Arguments

Applicant's arguments with respect to claims 1-10, 14-16, 23-36, 37-45, 49-51, 58-81, 84-98, 100, 102-112, 115-129, 131, 133-153 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 14-16, 23-36, 37-45, 49-51, 58-81, 84-98, 100, 102-112, 115-129, 131, 133-134, 136-146 are rejected under 35 U.S.C. 103(a), as best understood, as being unpatentable over Mossberg United States Patent 5,803,500 in view of Barzilai United States Patent 6,012,045 and Godin et al. United States Patent 6,255,652 (hereinafter Godin) and Leonard et al. United States Patent 5,903,874 (hereinafter Leonard).

Art Unit: 3627

As per claims 1-10, 14-16, 23-36, 37-45, 49-51, 58-81, 84-98, 100, 102-112, 115-129, 131, 133-134, 136-146, Mossberg discloses a method enabling the conducting of a silent auction (Mossberg, see at least, col. 3, lines 44-47) and that the auction could be conducted for profit (Mossberg, see at least, col. 3, lines 49-54). Further Mossberg discloses an auction item or **[claim 139 and 140]** multiple similar auction items which may include a certificate entitling the bearer to specific goods or services or invitations to dinner (e.g. invitation to a restaurant) (Mossberg, see at least, col. 3, lines 57-61).

The examiner notes that Mossberg is silent with respect to a web-site comprising display options to enable users to place a bid on one or more discounted gift certificates for auction and being determined a winner or to purchase the one or more discounted gift certificates at a fixed price via an instant purchase feature without participating in the auction and awarding the auction winner the discounted gift certificate wherein the discounted gift certificates are redeemable for service from a corresponding one of the one or more restaurants during the non-peak demand period.

Barzilai discloses a web-site comprising display options to enable users to place a bid on one or more discounted gift certificates for auction and being determined a winner

Art Unit: 3627

(Barzilai, see at least, abstract and col. 5, lines 8-18);

[claim 134] the user setting a minimum bid price for an auction item (Barzilai, see at least, col. 11, line 57-67 and col. 12, lines 1-10); **[claim 136 and 138]** wherein the website includes an auction display feature, the auction display comprising one or more of a name of the item, name of the manufacturer (e.g. examiner interprets this could include a restaurant), a description of the at least one item, including the validity (e.g warranty) and value (e.g. MRSP), a minimum bid requirement, and a status of the auction, including a current bid and a time left for bidding (Barzilai, see at least, col. 11, lines 37-67 and col. 12, lines 1-10 and lines 51-67 and col. 13, lines 1-26); **[claim 141]** wherein more than one individual can auction off items (Barzilai, see at least, col. 1, lines 52-58; the examiner interprets "operated by customers" to mean more than one individual auctioning items); **[claim 145 and 146]** user must register with the website prior to bidding on or purchasing an item and member nickname and password (Barzilai, see at least, col. 2, lines 20-67 and col. 3, lines 1-3 and col. 7, lines 36-60).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg a web-

Art Unit: 3627

site comprising display options to enable users to place a bid on one or more discounted gift certificates for auction and being determined a winner as taught by Barzilai. One of ordinary skill in the art would have been motivated to modify the references in order to provide entertainment to actual and potential customers in the form of an auction (Barzilai, see at least, col. 2, lines 17-18).

Godin discloses a website that displays options that provided at least one item at with an immediate buy option at a given fixed dollar amount, for a given period of time, without bidding to allow one or more users to win or purchase via an instant purchase feature (Godin, see at least, col. 2, lines 45-67; Examiner notes that continuity updating price is dependent for time remaining but it is fixed for a given amount of time for the immediate buy option); **[claim 137]** wherein the web site includes an item display feature, the display comprising an indication that the immediate purchase option is available at a fixed price for immediate purchase (Godin, see at least, col. 2, lines 45-67; FIG. 10).

The examiner takes the position that it would have been obvious to one of ordinarily skill in the art at the time of the invention was made to modify the teachings of Mossberg in view of Barzilai's online auction to include a website that displays

Art Unit: 3627

options at least one item at with an immediate buy option at a given fixed price, for a given period of time, without bidding as taught by Godin. One of ordinary skill in the art would have been motivated to modify the references in order to provide the excitement or the real time dynamic feedback of a traction auction (Godin, see at least, col. 1, lines 53-55).

Leonard discloses a coupon that provides a discount from a predetermined price during non-peak hours (Leonard, see col. 5, lines 47-60; Examiner interprets a coupon to be analogous to a certificate).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg's certificate to include a coupon that provides a discount from a predetermined price during non-peak hours as taught by Leonard. One of ordinary skill in the art would have been motivated to modify the references in order to provide an incentive for customers to utilize a service during off-peak hours.

Claims 135 and 147-148 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg United States Patent 5,803,500 in view of Barzilai United States Patent 6,012,045 and Godin et al. United States Patent 6,255,652 (hereinafter Godin) and

Leonard et al. United States Patent 5,903,874 (hereinafter Leonard) as applied to claim 133 above, and further in view of Examiner's Official Notice.

As per claim 135, The examiner notes that Mossberg in view of Barzilai and Godin is silent with respect to gift certificate is valid during a non-peak demand period to reduce excess capacity.

Leonard discloses a coupon that provides a discount from a predetermined price during non-peak hours (Leonard, see col. 5, lines 47-60; Examiner interprets a coupon to be analogous to a certificate).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the teachings of Mossberg to include a coupon that provides a discount from a predetermined price during non-peak hours as taught by Leonard. One of ordinary skill in the art would have been motivated to modify the references in order to provide an incentive for customers to utilize a service during off-peak hours.

The examiner notes that the combination of Mossberg, Barzilai , Godin, and Leonard teach the limitations of the

Art Unit: 3627

invention however the combination is silent with respect to validity of reducing capacity during peak hours.

However, the examiner takes Official Notice that businesses have non-peak demand periods and only except coupons during the non-peak demand periods in order to reduce capacity during peak times in which full price is required. This helps increase revenue during peak-times.

The examiner takes the position that it would have been obvious to one of ordinarily skill in the art at the time of the invention was made to modify the combination of M Mossberg, Barzilai, Godin, and Leonard to include have non-peak demand periods and only except coupons during the non-peak demand periods in order to reduce capacity during peak times in which full price is required as taught by the Examiner's Official Notice. One of ordinary skill in the art would have been motivated to do so in order to help increase revenue during peak-time periods.

As per claims 147-148, The examiner notes that the combination of Mossberg, Barzilai, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect including demographic information during registration.

However, the examiner takes Official Notice that many websites require user's to input demographic information during registration in order to better tailor to user's needs. This helps by maximizing the user's experience based on the collected data.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Barzilai, Godin, and Leonard to include having a user input demographic information during registration as taught by Examiner's Official Notice. One of ordinary skill in the art would have been motivated to do so in order to maximize the user's experience based on the collected data.

Claims 149-153 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg United States Patent 5,803,500 in view of Barzilai United States Patent 6,012,045 and Godin et al. United States Patent 6,255,652 (hereinafter Godin) and Leonard et al. United States Patent 5,903,874 (hereinafter Leonard), as applied to claim 133 above, and in further view of Shear et al. United States Patent 6,112,181 (hereinafter Shear).

As per claim 149, The examiner notes that the combination of Mossberg, Barzilai, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect a restaurant search module.

Shear discloses a restaurant search module (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Barzilai, Godin, and Leonard to include a restaurant search module as taught by Shear. One of ordinary skill in the art would have been motivated to combine the teachings in order to help you find the items you are looking for quickly and easily (Shear, see at least, col. 3, lines 20-31).

As per claim 150, The examiner notes that the combination of Mossberg, Barzilai, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect a restaurant search module including an interactive guide.

Shear discloses a restaurant search module including an interactive guide (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Barzilai, Godin, and Leonard to include a restaurant search module including an interactive guide as taught by Shear. The motivation to combine is the same as claim 149, above.

As per claim 151-152, The examiner notes that the combination of Mossberg, Barzilai, Godin, and Leonard teach the limitations of the invention however the combination is silent with respect to listing restaurants based on desired cuisine, zip code, or other geographic area parameters or other search parameters.

Shear discloses listing restaurants based on desired cuisine (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Barzilai, Godin, and Leonard to include a listing restaurants based on desired cuisine, as taught by Shear. The motivation to combine is the same as claim 149, above.

As per claim 153, The examiner notes that the combination of Mossberg, Barzilai, Godin, and Leonard teach the limitations of the invention as per claim 133, and further Shear teaches the restaurant search module and listing module as per claims 149-152.

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination of Mossberg, Barzilai, Godin, and Leonard to restaurant search module and listing module as taught by Shear. The motivation to combine is the same as claim 149, above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asfand M. Sheikh whose telephone number is (571)272-1466. The examiner can normally be reached on M-F 8a-4:30p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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3627

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April 11, 2008